

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EUGENE P. PATTERSON,)
Plaintiff,) Civil Action No. 21-1622
v.) Magistrate Judge Maureen P. Kelly
PNC BANK,) Re: ECF No. 28
Defendant.)

MEMORANDUM ORDER

Plaintiff Eugene P. Patterson (“Plaintiff”), an inmate presently incarcerated at the Tucson Federal Correctional Institution, filed this *pro se* action arising out of allegations that Defendant PNC Bank (“PNC”) violated his rights by failing to provide him with information about the status of his accounts. ECF No. 14.

Presently before the Court is Plaintiff's Motion to Amend. ECF No. 28. For the reasons that follow, this Motion is denied without prejudice.

I. PROCEDURAL BACKGROUND

Plaintiff began this action by lodging a Complaint without submitting the filing fee or moving for leave to proceed *in forma pauperis*. ECF No. 1. After Plaintiff paid the filing fee, his Complaint was filed on May 10, 2022. ECF Nos. 13 and 14. PNC moved to dismiss Plaintiff's Complaint under Federal Rules of Civil Procedure 12(b)(6) and (b)(1) on August 5, 2022. ECF No. 24.

Plaintiff filed the instant Motion to Amend on August 23, 2022. ECF No. 28. Although Plaintiff requests leave to amend his Complaint, he does not attach a proposed Amended Complaint or clearly identify what he seeks to amend in his pleadings. As a result, it is not clear what Plaintiff wants to add or change to his Complaint.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 15(a) governs when a party may amend his pleadings before trial, and it provides in relevant part:

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed. R. Civ. P. 15(a)(1)-(2).

III. DISCUSSION

Upon review, the Motion to Amend Pleadings is denied without prejudice. Under Federal Rule of Civil Procedure 15(a)(1)(B), Plaintiff may amend his Complaint once as a matter of course within 21 days of PNC serving its Motion to Dismiss. While it has been less than 21 days so far, he has yet to provide an Amended Complaint for filing. Based on this, the Court finds that amendment is improper under this subsection.

In the alternative, the Court may also grant leave to amend under Federal Rule of Civil Procedure 15(a)(2). Although the Court must "freely give leave when justice so requires," Plaintiff does not provide sufficient information for the Court to determine whether such amendment is proper. As discussed, Plaintiff does not clearly identify what he purports to change or why, and he does not include a copy of his proposed amended pleading.

For these reasons, the Court denies Plaintiff's Motion to Amend without prejudice. If Plaintiff wishes to amend his Complaint, he must file another Motion to Amend Complaint and

he must state the basis for his proposed amendments and attach a copy of his proposed amended complaint.

IV. CONCLUSION

For the reasons discussed, the Motion to Amend, ECF No. 28, is denied without prejudice. An appropriate Order follows.

WHEREFORE, this 25th day of August, 2022, it is HEREBY ORDERED that Plaintiff's Motion to Amend, ECF No. 28, is DENIED without prejudice.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:



MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: Eugene P. Patterson
36755-118
Tucson Federal Correctional Institution
Inmate Mail/Parcels
8901 S. Wilmot Road
Tucson, AZ 85706

All counsel of record via CM/ECF.